IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 581 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BABHUBHAI SHAMJIBHAI RIYANI

Versus

STATE OF GUJARAT

Appearance:

MR YOGESH S LAKHANI for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 19/07/2000

ORAL JUDGEMENT

#. Heard the learned advocate Mr.Y.S.Lakhani for the petitioner.

#. Rule. Learned APP Mr.H.H.Patel waives service.

#. The petitioner has prayed for temporary custody of Chhakada Rikshaw bearing registration No.GJ-10-T-9078 seized by Rajkot Taluka Police Station in connection with CR.No.824/99 on any appropriate terms and conditions.

It is submitted on behalf of the petitioner that son of the petitioner is involved and arrested in connection with CR No.824/99 registered at Rajkot Taluka Police Station for the offence made punishable under sections 302, 201, 102-B and 149 etc. of IPC. That during the investigation the said rikshaw as described hereinabove was seized by the Investigating Officer and is lying at Taluka Police Station, Rajkot without any protection. That the petitioner applied before the J.M.F.C., (Traffic), Rajkot who rejected the application vide order dated 17.1.2000 against which the petitioner preferred revision application No.21/2000 in the Court of Sessions Judge, Rajkot. However, the said revision application was also rejected vide order dated 19.2.2000 and hence special criminal application is filed.

#. During the submissions, it was discussed that, muddamal rikshaw attached by the police had to be kept in open space without any protection in monsoon and thereby the petitioner is likely to suffer irreparable loss. Under the circumstances, if the custody of the said rikshaw is given to the petitioner by putting appropriate conditions, the end of justice would be met. Learned APP Mr.H.H.Patel has stated that, some stringent conditions should be imposed.

#. On the basis of the aforesaid discussion, following orders are passed.

#. The order of learned J.M.F.C., (Traffic) dated 17.1.2000 as well as the learned Sessions Judge, Rajkot dated 19.2.2000 are hereby quashed and set aside. The petitioner shall be handed over the custody of rikshaw bearing registration No.GJ-10-T-9078 on the following conditions;

(A) The petitioner shall execute a bond of Rs.50,000/- (Rupees fifty thousand only) and shall furnish one surety of like amount before the J.M.F.C., (Traffic), Rajkot pending final decision of the said case;

(B) The petitioner shall not transfer, assign or part with the possession of the said vehicle without prior permission of the trial court;

(C) The petitioner shall not change the identity of the vehicle or spare-parts or colour without prior permission of the court;

(D) The petitioner shall produce the said vehicle as and when required by the police/court.

Rule to that extent is made absolute.

(A.K.Trivedi,J.)
(pathan)